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| 10/748,869 | 12/30/2003 | Steve Hurson | NOBELB.163A | 3711 |
| 20995 7590 03/18/2008 KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614 | | | | |
| EXAMINER | | | | |
| LEWIS, RALPH A | | | | |
| ART UNIT | | PAPER NUMBER | | |
| 3732 | | | | |
| NOTIFICATION DATE | | DELIVERY MODE | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Advisory Action
After the Filing of an Appeal Brief

Application No.

10/748,869

Examiner

Ralph A. Lewis

Applicant(s)

HURSON, STEVE

Art Unit

3732

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The reply filed 28 December 2007 is acknowledged.

1. ☒ The reply filed on or after the date of filing of an appeal brief, but prior to a final decision by the Board of Patent Appeals and Interferences, will not be entered because:

a. ☒ The amendment is not limited to canceling claims (where the cancellation does not affect the scope of any other pending claims) or rewriting dependent claims into independent form (no limitation of a dependent claim can be excluded in rewriting that claim). See 37 CFR 41.33(b) and (c).

b. ☐ The affidavit or other evidence is not timely filed before the filing of an appeal brief.
See 37 CFR 41.33(d)(2).

2. ☐ The reply is not entered because it was not filed within the two month time period set forth in 37 CFR 41.39(b), 41.50(a)(2), or 41.50(b) (whichever is appropriate). Extensions of time under 37 CFR 1.136(a) are not available.

Note: This paragraph is for a reply filed in response to one of the following: (a) an examiner's answer that includes a new ground of rejection (37 CFR 41.39(a)(2)); (b) a supplemental examiner's answer written in response to a remand by the Board of Patent Appeals and Interferences for further consideration of rejection (37 CFR 41.50(a)(2)); or (c) a Board of Patent Appeals and Interferences decision that includes a new ground of rejection (37 CFR 41.50(b)).

3. ☐ The reply is entered. An explanation of the status of the claims after entry is below or attached.

4. ☒ Other: The amendment to claims 4, 6, 8, 9, 10 and 11 changing the term "cap" to "mating component" is not supported by the originally filed specification and introduces a new matter issue. More particularly, there is no reasonable disclosure that the "mating component" of paragraph 0055 having a prong or lever arm also includes the "tissue retention flange" that extends below the shoulder portion and has any particular color or cross section (all of which are features of the previously claimed cap). There is no disclosure of a cap having a prong or lever arm. Attention is further directed to claim 28 where the "mating component" and the "cap" are claimed as completely different elements. Applicant's amendment confuses and mixes up the elements of his own disclosed invention.

/Ralph A. Lewis/
Primary Examiner, Art Unit 3732